IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Vivek Jaiswal et al.   Examiner: Chirag R. Patel
Serial No.: 10/642,702   Group Art Unit: 2454
Filed: August 18, 2003   Docket No.: P16507
Title: DYNAMIC LOAD DISTRIBUTION WITHIN A SESSION INITIATION PROTOCOL NETWORK
Assignee: Intel Corporation   Confirmation No.: 4365

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
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This is in response to the Final Office Action mailed June 1, 2009. A Notice of Appeal accompanies this submission. Applicants respectfully request review prior to the filing of an Appeal Brief, based upon the following.

REMARKS

In the Final Office Action, the Examiner has rejected all of the currently pending claims. More specifically, the Examiner has rejected various combinations of the currently pending claims under 35 U.S.C. § 103(a) as being unpatentable over combinations of Lakkakorpi (U.S. Patent No. 7,489,632) in view of Daoud et al. (U.S. Publication No. 2002/0087694), Ejzak (U.S. Publication No. 2003/0027595), Kundu (U.S. Publication No. 2004/0117794), and/or Swildens et al. (U.S. Patent No. 7,346,676). Applicants respectfully submit that the Examiner's rejections of the claims are clearly erroneous, and therefore, must be withdrawn.

Applicants respectfully submit that the Examiner's rejections fail to establish a prima facie case of obviousness because the cited documents, taken singly or in any combination, fail to teach or suggest at least the following claim language:

A method of communicating load, comprising:

determining a load on a first node;

factoring the load into a **session initiation protocol (SIP) Q-value** for the

first node, <u>where the Q-value is an integer value based on both (1) a contact</u>

<u>priority and (2) a number of calls or an amount of information being processed for</u>

<u>a call</u>;

transmitting <u>the Q-value</u> to a second node via one or more load brokers

where each load broker is a back-to-back user agent; and

determining a domain load factor for a domain that comprises a plurality

of SIP entities, the domain load factor indicating domain load for the entire

domain, <u>the domain load factor to be shared with other domains and</u> **to be used**

with the Q-value <u>to determine call routing</u>. (Claim 1).

These limitations of claim 1 are found in substantially similar or identical form in the

other independent claims. Therefore, all of the currently pending claims must be construed as

incorporating the above or substantially similar claim language.

At pages 2-3 of the Final Office Action and in the Continuation Sheet of the Advisory

Action (dated August 7, 2009), the Examiner argues that Lakkakorpi discloses using a "Q-

value." However, as is well known to those of ordinary skill in the art, a <u>"SIP Q-value"</u> (see

claim 1 above) is a **specific** <u>Session Initiation Protocol (SIP) parameter that has specific</u>

<u>properties/uses according to SIP</u>. See, e.g., pages 35 and 46 (§§8.1.3 and 10.2.1, respectively) of

RFC 3261 and related SIP standards documents. <u>Nothing</u> in any of the documents relied upon

by the Examiner (including Lakkakorpi) discloses or suggests use of such **SIP Q-value** in **any**

fashion, much less, in the <u>specific</u> manner argued by the Examiner at pages 2-3 of the Final

Office Action, or in <u>specific</u> manner recited in the claims. <u>Indeed, the term "Q-value" is</u>

<u>nowhere found anywhere in Lakkakorpi, at all!</u>[1]

At page 3 of the Final Office Action, the Examiner acknowledges that Lakkakorpi fails to

disclose "session initiation protocol and a plurality of entities, where the Q-value is an integer

value based on both (1) a contact priority and (2) a number of calls or an amount of information

being processed for a call." The Examiner argues that Daoud and Ejzak disclose these missing

features. Final Office Action, page 3; Continuation Sheet of Advisory Action. However, as

stated above, <u>nothing</u> in <u>any</u> of the documents relied upon by the Examiner, including Daoud and

Ejzak, discloses or suggests use of a <u>SIP Q-value</u> in <u>any</u> fashion, much less, in the manner set

forth in the claims (see claim 1). Additionally, even a cursory review of the specific portions of

Daoud and Ejzak that are argued by the Examiner to disclose the above claim features reveals

that Daoud and Ejzak cannot be said actually to disclose or suggest such features. See

Applicants' Response After Final Rejection submitted 28 July 2009, pages 7-11. Additionally,

nothing in Kundu and/or Swildens et al. can be said to disclose or suggest the above underlined

features of the claims that are wholly missing from Lakkakorpi, Daoud, and Ejzak.

These differences between these documents relied upon in the Examiner's rejections (on

the one hand), and the claims (on the other hand), are not merely academic. For example,

although the limitations in the claims are not limited to or bound by embodiments disclosed in

the Specification, in an embodiment disclosed in the Specification, these features of the claimed

invention that are not disclosed or suggested in these documents permit this embodiment to

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[1] Furthermore, no combination of the documents relied upon by the Examiner with RFC 3261 would disclose or suggest specific features of the claims.

operate in a manner that is different from, and to achieve advantages compared to the technology

disclosed in these documents. (See, e.g., Specification, page 10, lines 14-22).

Accordingly, since these advantageous features of the claimed invention are nowhere

disclosed or suggested in any of the documents relied upon by the Examiner, it is respectfully

submitted that none of these documents, taken singly or in any combination, anticipates or

renders obvious the claimed invention. Therefore, it is respectfully submitted that the

Examiner's rejections of the claims under 35 USC § 103 cannot be maintained, and should be

withdrawn.

In the event that any fees are due or payable in connection with this submission or in this

application (including any applicable appeal-related or extension of time for response fees)

please charge them to Deposit Account No. 50-4238. Likewise, please credit any overcharges to

Deposit Account No. 50-4238.

Respectfully submitted,

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